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April 30, 2024

The Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *In re Google Digital Advertising Antitrust Litigation*, No. 1:21-md-03010 (PKC)
[rel. No. 1:21-cv-3446; No. 1:23-cv-5177]

Dear Judge Castel:

Plaintiffs Associated Newspapers, Ltd., Mail Media, Inc. (together, “Daily Mail”), and Gannett Co., Inc. write to respond to Google’s improper request for outright dismissal of Daily Mail’s and Gannett’s state law claims, and its meritless request in the alternative to deny leave to amend. *See* MDL Dkt. No. 766. There is no conference scheduled at this time.

As stated in their pre-motion letter, and consistent with the Court’s preferred practices, Daily Mail and Gannett offered amendments to “‘obviate[]’or at the very least narrow the areas of dispute” raised in Google’s pre-motion letter, as well as “to add factual details in support of their state law claims” based on documents obtained in discovery. MDL Dkt. No. 728 at 1 (quoting Individual Practices in Civil Cases § 3(A)(v)). The Court granted leave to do so, indicating it would “address the sufficiency of a[ny] claim in a subsequent ruling” while also making clear it would consider “the impact, if any, of the proposed amended pleading on discovery in this action.” Pre-Trial Order No. 10 ¶¶ 1, 3, MDL Dkt. No. 736 (“PTO 10”).

Google now objects to the proposed amendments on two main grounds. *First*, even though the Court already stated it did “not presently intend to rule on any objection to an amendment on the grounds of futility,” PTO 10 ¶ 3, Google not only claims (at 2) that the amended allegations are futile, but further requests that the Court dismiss Daily Mail’s and Gannett’s state law claims without the benefit of any actual briefing. In addition to ignoring PTO 10, Google identifies no procedural basis for such an extreme and prejudicial step, and the Court should reject it.

Second, Google claims (at 2) that the proposed amendments somehow “muddy[] the bounds of discovery” (and then uses that as an excuse to reference a series of discovery grievances that it has declined to bring before the Court). But Daily Mail’s and Gannett’s never-

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adjudicated state law claims remain the same; the proposed amendments just add additional factual allegations in support. The existing scope of discovery already covers the conduct at issue. Google does not explain how Daily Mail's and Gannett's additional factual allegations (which were informed by discovery to date) actually alter the scope of that discovery. Tellingly, Google does even not contend that Daily Mail's and Gannett's amendments require any extension of fact discovery, which remains set to close on June 28. Instead, Google offers (at 4) only its own, belated desire to "focus its efforts." That is no reason for Google to ignore its existing obligations or reject an amendment that does not expand the scope of discovery.

In short, the Court should reject Google's attempt to relitigate PTO 10. It still makes sense to "defer[] briefing" on the sufficiency of Daily Mail's and Gannett's state law claims "until the summary judgment stage." PTO 10 ¶ 5.

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Respectfully submitted,

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